

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARIEA BOWMAN,

Plaintiff,

-against-

THE CITY OF NEW YORK, POLICE OFFICER ASA
BARNES, POLICE OFFICER KELVY VASQUEZ, AND
SGT. AMANJEET SANDHU,

**DECLARATION OF
MORGAN D. KUNZ IN
SUPPORT OF
DEFENDANTS' MOTION
FOR SUMMARY
JUDGMENT.**

08 Civ. 10123 (PAC)

Defendants.

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Morgan D. Kunz, an attorney duly admitted to practice in the Southern District of New York, declares pursuant to 28 U.S.C. § 1746, under penalty of perjury, that the following is true and correct:

1. I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for defendants City of New York, Asa Barnes, Kelvy Vasquez, and Amanjeet Sandhu. As such, I am familiar with the facts stated herein and submit this declaration to place the relevant documents on the record in support of defendants' motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure.

A. A copy of the amended complaint, dated December 17, 2009, and filed in the Southern District of New York, is annexed hereto as Exhibit A. In the amended complaint, plaintiff alleges that she was falsely arrested, unlawfully detained, and subjected to excessive force.

B. A copy of the transcript of the deposition of plaintiff, Mariea Bowman, which was taken on August 24, 2009, and wherein plaintiff testified regarding the incident that forms the basis of her lawsuit and the claims attendant thereto, is annexed hereto at Exhibit B.

C. A copy of the transcript of the deposition of Darryl Epps, taken on August 28, 2009, is annexed hereto at Exhibit C. Epps is the complaining victim who reported to the police that a crime had been committed by plaintiff on February 29, 2008.

D. A copy of the transcript of the deposition of Amanjeet Sandhu, taken on August 28, 2009, is annexed hereto at Exhibit D. Amanjeet Sandhu is the New York City Police Department sergeant who was present during the investigation into Epps's complaint of unlawful eviction, and who was present when plaintiff was arrested. Sergeant Sandhu is named as a defendant in this action

E. A copy of the transcript of the deposition of Kelvy Vasquez, taken on September 29, 2009, is annexed hereto at Exhibit E. Kelvy Vasquez is the police officer who was present during the investigation into Epps's complaint of unlawful eviction, and who was present when Ms. Bowman was arrested. Officer Vasquez is named as a defendant in this action.

F. A copy of New York City Police Department arrest documents, bearing Bates Stamp Nos. NYC99 through NYC104, are annexed hereto as Exhibit F. These documents include: Arrest Report #B08618094, NYC99 through NYC100; Complaint Report #2008-047-01801, NYC101 through NYC102; and Domestic Incident Report #2008-047-001200, NYC103 through NYC104. These reports summarizes Darryl Epps' complaint of unlawfully eviction and the arrest of plaintiff for that unlawful eviction.

G. A copy of a New York City Police Department Booking / Arraignment / Disposition Inquiry System, On-Line Prisoner Arraignment History, for Arrest ID #B08618094,

bearing Bates Stamp No. NYC 4, is annexed hereto as Exhibit G. The OLPA History shows the date and time of plaintiff's processing through the system following her arrest. As indicated on the OLPA, plaintiff was arraigned and released at 12:36 a.m. on March 2, 2008.

H. Copies of three New York City Police Department Incident Record ("Sprint Report"), bearing Bates Stamp Nos. NYC76 through NYC80, are annexed hereto as Exhibit H. These sprint reports detail the police response to 911 calls on February 29, 2008 at 2:44 a.m., on February 29, 2008 at 11:12 p.m., and on March 1, 2008 at 1:10 a.m. These reports show that Darryl Epps complained that plaintiff unlawfully evicted him, that plaintiff changed the locks to the residence, that there were children in the residence with plaintiff, and that plaintiff was reportedly emotionally disturbed.

I. A copy of an New York City Fire Department Incident Record ("CAD Report"), dated February 29, 2008, bearing Bates Stamp No. NYC290, is annexed hereto as Exhibit I. This CAD Report shows that an ambulance responded to Ms. Bowman's residence on the night that she was arrested because Mr. Epps had called 911 and reported that Ms. Bowman was emotionally disturbed and had changed the locks to the residence.

J. Copies of the relevant entries from defendants Barnes and Sandhu's memobooks, from February 29, 2008 through March 1, 2008, bearing Bates Stamp Nos. NYC93 through NYC98, are annexed hereto as Exhibit J. These memobook entries include information related to the investigation into Epps' complaint of unlawful eviction, plaintiff's arrest, and plaintiff's transportation to Jacobi Hospital.

K. A Copy of a New York City Police Department Emergency Service Report, dated March 1, 2008, Case No. 1998, bearing Bates Stamp No. NYC357, is annexed hereto as

Exhibit K. The Emergency Service Report shows that the police gained entry into plaintiff's residence in order to provide access to Epps.

L. A copy of the transcript of a court hearing in The People of the State of New York v. Marea Bowman, Docket No. 2008BX013508, from March 1, 2008, bearing Bates Stamp Nos. NYC489 through NYC492, is annexed hereto at Exhibit L. This transcript shows that plaintiff was arraigned on March 1, 2008, less than 24-hours after her arrest, and that following the arraignment she was released on her own recognizance.

M. A copy of medical records from Montefiore Medical Center North, regarding plaintiff's medical visits on March 3, 2008 and March 4, 2008, bearing Bates Stamp Nos. 0064 through 0078, are annexed hereto as Exhibit M. These records show that plaintiff did not seek treatment until two days after her release from custody and that upon examination she suffered from no apparent physical injuries.

N. A copy of medical records from Boulevard Medical Center, regarding plaintiff's medical visits on March 3, 2008 and March 4, 2008, bearing Bates Stamp Nos. 0308 through 0309, are annexed hereto as Exhibit N. These records show that following her discharge from Montefiore on March 4, 2008, plaintiff did not seek treatment for any physical injuries she allegedly sustained until April 17, 2008.

O. A copy of the original complaint in this matter, dated November 10, 2008, is annexed hereto as Exhibit N. The original complaint contains identical allegations as are alleged in the amended complaint. The amended complaint does not, however, name any of the individual defendants in the caption.

P. A copy of New York City Police Department Patrol Guide Provision §214-12, entitled Unlawful Eviction, bearing Bates Stamp Nos. NYC305 through NYC307, is annexed hereto as Exhibit O. This patrol guide provision shows that the defendant officers acted reasonably when they sought to arrest plaintiff for unlawful eviction.

Dated: New York, New York
February 5, 2010

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By:



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Docket No. 08 Civ. 10123 (PAC)

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NYCLIS No. 2008-043011*

Due and timely service is hereby Admitted.

New York, N.Y....., 2010

..... Esq.

Attorney for.....